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SUBJECT: ANGOLA: 2009 INVESTMENT CLIMATE STATEMENT

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1. Angola's 2009 Investment Climate Statement

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Openness to Foreign Investment

2. Angola offers both high returns and great risks to investors and exporters. Oil and diamond revenue and intensive infrastructure rebuilding following the end of civil war in 2002 create business opportunities, though the global financial crisis will slow Angola's heretofore explosive growth. Over recent years, the Angolan economy had double digit growth rates, but the collapse of the oil and diamond market will deeply reduce growth in 2009. The business environment is one of the most difficult in the world. Investors must factor in pervasive corruption, an underdeveloped financial system and high on-the-ground costs. Surface transportation inside the country is slow and expensive, while bureaucracy and port inefficiencies complicate imports.

3. The National Private Investment Agency (ANIP) helps facilitate new investment under the 2003 Basic Law for Private Investment (Law 11/03). Law 11/03 lays out the general parameters, benefits, and obligations for foreign investors, and provides for equal treatment, offers fiscal and custom incentives, simplifies the investment application process and sets capital requirements. However, investments in the energy, diamond, telecommunication and financial sectors continue to be governed by legislation specific to each sector. Decrees and regulations issued by other government ministries may take precedence over the 2003 Law. Present or future rules may erode or negate investment protections offered by the 2003 Investment Law. The 2003 investment law was part of an overall effort by the Government of the Republic of Angola (GRA) to create a more investor-friendly environment. Other legislative measures include the Company Law and the Voluntary Arbitration Law. The Company Law consolidates the rules that apply to the incorporation of commercial companies in Angola, and the Voluntary Arbitration Law

provides a legal framework for non-judicial resolution of disputes.

¶4. In 2008, President dos Santos created a commission consisting of senior economic advisors tasked to overhaul ANIP. As part of its mandate, the commission will explore changes impacting private investment, including Angola's tax incentive structure, customs policies, and immigration laws and regulations as they affect business and investment in the country. The commission will present its findings and recommendations to the president in early 2009. ANIP is expected to continue to operate as normal during this period. However, changes to policy may occur during 2009 and prospective investors are advised to monitor ANIP's website during the course of the year.

¶5. ANIP must approve foreign investments of \$100,000 to \$5 million. The Council of Ministers must approve investments over \$5 million, as well as any investment that requires a concession (such as oil or mining) or involves the participation of a parastatal. After obtaining contract approval from ANIP or the Council of Ministers, the investor must register the company, publish the company's statutes in the official gazette (Dirio da Repblica), obtain a business license, and register with the fiscal authorities. Foreign investments under \$100,000 do not require ANIP approval.

¶6. Obtaining the proper permits and business licenses to operate in Angola can be time-consuming. The World Bank Doing Business in 2009 report identified Angola as one of the most time-consuming countries surveyed for establishing a business (168 out of 181). Launching a business typically requires 68 days, compared with a regional average of 48 days. The government established the "Guichet nico," or one-stop shop, under the Ministry of Justice, bringing together representatives of various ministries in one place, in an effort to simplify and speed up company registration time. However, the Ministry of Justice lacks authority over the other government ministries, and the process remains slow. Nonetheless, the Guichet nico succeeded in issuing 2000 new business licenses in 2008. With the assistance of advisors from the Portuguese Ministry of Justice, the GRA Ministry of Justice is in the process of reorganizing the Guichet to increase its efficiency.

¶7. While no formal discrimination against foreign investment exists, Angolan or other companies familiar with the bureaucratic and legal complexities of the business environment often hold an advantage. The Promotion of Angolan Private Entrepreneurs Law gives Angolan-owned companies preferential treatment in tendering for goods, services and public works contracts.

¶8. The government continues to work on the creation of a stock exchange, the "Bolsa de Valores." No visible progress has been made during the year; however, the government issued an announcement saying that it hoped the stock exchange will start operations in early 2009.

Conversion and Transfer Policies

¶9. Economic and financial reform measures in recent years have improved local access to foreign exchange and facilitated remittance and transfer of funds. Bank service time now has been reduced from several months to a matter of hours. While Investment Law 11/03 guarantees the repatriation of profits for officially approved foreign investment, and investors can remit funds through local commercial banks, under Central Bank Order 4/2003, the Bank must authorize the repatriation of profits and dividends exceeding \$100,000. In addition, the Central Bank can temporarily suspend repatriation of dividends or impose repatriation in installments if immediate repatriation would have an adverse effect on the country's balance of payments.

Expropriation and Compensation

¶10. The Government of Angola is unlikely to expropriate the assets of foreign investors directly. During 2007, however, the GRA cancelled quarrying permits for several companies, including an American-owned company, without compensation or adequate

explanation. Prior to 1992, the government used failure to fulfill contractual or other obligations as justification for expelling foreign investors and expropriating their facilities. Changes in legislation and enforcement of existing laws pose some risk of reducing company profits. This is especially true in the petroleum sector, which has been subject to local content regulations and three petroleum laws promulgated in 2004. The legislative process is generally secretive and closed to public review. Additionally, vague provisions in some laws permit varying interpretations.

Dispute Settlement

¶11. Angola's legal and judicial system lacks capacity and is inefficient. Legal fees are high, and most businesses avoid taking commercial disputes to court. The World Bank's Doing Business in 2009 survey estimates that commercial contract enforcement, measured by time elapsed between filing a complaint and receiving restitution, typically takes 1,011 days in Angola. The Voluntary Arbitration Law (VAL) provides a general legal framework for faster, non-judicial arbitration of disputes, except for cases expressly excluded by the law. The VAL has been published in the official gazette, the *Dirio da Republica*, and is in effect. Angola is not a signatory to the United Nations New York Convention, the World Bank's International Center for Settlement of Investment Disputes (ICSID), or the United Nations Convention on the International Sale of Goods (CISG). Angola is a member of the Multilateral Investment Guarantee Agency (MIGA), which provides dispute settlement assistance. Past MIGA efforts to resolve foreign investment disputes have proven successful, but no cases involving U.S. companies were referred to MIGA in 2008. The Angolan and U.S. Governments have successfully negotiated a Trade and Investment Framework Agreement. The agreement, which should be signed in early 2009, should lead, in due course, to formalization of a Bilateral Investment Treaty.

Performance Requirements and Incentives

¶12. Angola's investment law gives foreign and domestic investors equal access to investment incentives. Incentives for such high-priority sectors as agriculture, manufacturing, energy, water and housing include exemption from industrial and capital gains taxes for up to 15 years and from customs duties for up to 6 years. Many foreign companies now operating in Angola enjoy some form of tax or duty waiver. Companies need to apply for such incentives when submitting an investment application to ANIP. ANIP and other government ministries are willing to accommodate large foreign investments.

¶13. While Angola does not impose or enforce many specific performance requirements on foreign investments, the government encourages "Angolanization" of companies and greater use of Angolan suppliers of goods and services. Decrees 5/95 and 6/01 limit expatriate staffing of local companies set up in Angola by national or foreign investors to 30 percent of the workforce and require Angolan and expatriate staff with the same jobs and responsibilities to receive the same salaries and social benefits. Oil Companies are now under a decree promulgated on October 14, 2008 to first seek Angolan employees to fill any vacant position prior to seeking expatriate appointment, which must first be authorized by the Ministry of Petroleum. International oil companies are working with the government on a new local-content initiative that will establish more explicit sourcing requirements for the petroleum sector. Oil service companies may meet these requirements by partnering with local Angolan firms, hiring more Angolan employees or substituting local products for imports. Foreign investors can set up fully-owned subsidiaries in many sectors and frequently are encouraged, but not required, to take on local partners.

¶14. In the oil and diamond sectors, contracts with the government spell out the commitments companies make to invest in infrastructure and social services to benefit local communities, such as building schools, equipping hospitals or funding microcredit programs. The government also encourages downstream investments in facilities such

as refineries and diamond-processing plants.

¶15. The Angolan government requires an Environmental Impact Study for investments in petroleum, mining, road construction or power stations. The Ministry of Environment must approve all Environmental Impact Studies before projects can be licensed.

Right to Private Ownership and Establishment

¶16. Foreign and domestic private entities have the right to establish, acquire and dispose of interests in business enterprises. Public enterprises hold some practical advantages in access to markets and credit. All non-urban and some urban land is ultimately under State ownership, but can be leased to private entities. Regulations to implement the 2004 land-tenure law should clarify land use and ownership, but have not yet been issued. Oil and diamond production and exploration rights are granted for limited periods of time and only as partnerships between private companies and the resource owners, Sonangol and Endiama, respectively. Diamond-exploration concessions normally last three to five years, with the possibility of extension. Diamond-production contracts are negotiated following a viable discovery. Oil-exploration concessions normally last for ten years. The government allows and encourages public-private partnerships and participation of private investors in public utilities like electricity and water. Private companies have concessions to operate hydroelectric dams and shipping terminals in the Port of Luanda.

Protection of Property Rights

Intellectual property

¶17. Angola has basic intellectual property rights protection. Angola's National Assembly adopted the Paris Convention for the Protection of Industrial Intellectual Property in August 2005, incorporating the 1979 text and the patent cooperation treaty concluded in 1970 and amended in 1979 and 1984. The Ministry of Industry administers intellectual property rights for trademarks, patents and designs under Industrial Property Law 3/92. The Ministry of Culture regulates authorship, literary and artistic rights under Copyright Law 4/90. No court case involving U.S. intellectual property has tested the strength of these laws. Angola is a member of the World Intellectual Property Organization (WIPO) and follows international patent classifications of patents, products and services to identify and codify requests for patents and trademark registration. The fee for each patent petition varies by type of request.

¶18. Angola scores low on the World Economic Forum's survey of Intellectual Property Protection index with a score of 2.6 (on a sliding scale of 1 to 7). In comparison, Brazil and South Africa score 3.3. and 5.2 respectively. Weak protection of intellectual property rights can discourage investment involving innovative or proprietary technologies.

Real estate

¶19. Angola's Law on Land and Urban Planning affirms that all land ultimately belongs to the State, but permits most urban and some non-urban land to become effectively privately owned through long-term renewable leases from the Angolan government. However, registering property takes 11 months, according to the World Bank's "Doing Business in 2009 Survey, with fees reaching 11.6 percent of property value. Owners must also wait five years after purchase before selling land. Implementing regulations, when written, are supposed to set out guidelines defining different forms of land occupation, including commercial use, traditional communal use, leasing and private homes.

Transparency of Regulatory System

¶20. The government is making progress in establishing clearer

written regulations. Traditionally, the regulatory system has been complex, vague and inconsistently enforced. In many sectors, no effective regulatory system exists, due to lack of capacity. The Angolan Communications Institute (INACOM) sets prices for telecommunications services and is the regulatory authority for the telecommunications sector. Revised energy-sector licensing regulations have improved legal protection for investors to attract more private investment in electrical infrastructure, such as dams, power plants and distribution grids. A 2005 banking supervision law continues to wait for National Assembly action.

Efficient Capital Markets and Portfolio Investment

¶21. Angola's financial sector, though still underdeveloped, has grown rapidly and key indicators have improved in recent years. By December of 2007, total deposits exceeded \$11.5 billion, up from \$9.5 billion in 2006. Most banks focus their operations on such short-term commission-related activities as currency trading and trade finance. Foreign investors do not normally access credit locally, and local investors either self-finance or seek financing from non-Angolan banks and investment funds. Subsidized government loan programs to promote economic development are available only to majority-owned Angolan companies and on a very selective basis. Local businesses must take loans in kwanzas, the Angolan currency, though exceptions are granted.

¶22. In the past, triple-digit inflation resulted in a high level of dollarization in the economy and banking system, with 70 percent of banking assets held in dollars. Since the end of the civil war in 2002, the Central Bank has devoted considerable effort to rebuilding trust in the kwanza, bringing inflation down to 12 % in 2006 and 11.8 % in 2007; in 2008, however, inflation rose to 13.2%. The mandatory reserve requirement for non-government deposits, whether in kwanzas or foreign currency, is 15 percent. The reserve requirement for government deposits is 100 percent, a measure that seriously limits lending by state-owned banks.

¶23. The number of private banks has been growing since 2003, transforming a sector previously dominated by State-owned banks. Two of Angola's three largest banks are privately owned. As of late 2008, Angola had 18 commercial banks, three of them State-owned. While every provincial capital has at least three bank branches, only 6 percent of the population uses banks, and few businesses even apply for loans. By mid-2007, credit to the private sector amounted to just 7.2 percent of GDP; while bank deposits totaled only 15.7 percent of GDP.

¶24. Banks have begun to offer a more diverse array of financial products and instruments. Auto loans and mortgages are increasingly available, as are 15-year mortgages at 8 percent interest. Unclear land titles and ill-defined property rights may, in some instances, complicate and lengthen the process of applying for a mortgage. In other financial services, three new insurance companies, Nossa Segurost, Global Seguros and Mundial began operations in 2006.

¶25. Banks had a low lending rate of 61 percent of deposits in 2007. The normal banking need to identify customers and require collateral are blocked because State-owned property cannot be offered as collateral, the judicial system is weak, credit histories cannot be tracked and few houses have street addresses.. Banks profit from transactions, short-term trade financing and investments in high-interest government bonds, but also increasingly from loans, especially in the construction sector. In the past, State and State-affiliated companies enjoyed privileged access to loans, often at concessionary rates, leading to several bank failures. Currently, the non-performing loan rate is relatively low, reflecting conservative lending practices throughout the sector. Legislative changes and development in the banking sector are expected to widen the availability of credit. The new land law should reduce confusion over property rights and help identify sources of collateral.

¶26. The Central Bank has developed a market for short-term bonds called Ttulos do Banco Central and long-term bonds called Obrigages do Tesouro. Most of these bonds are bought and held by local Angolan banks. The Obrigages have maturities ranging from 1

to 7.5 years, whereas the Ttulos have maturities of 91 to 182 days.

For up-to-date information on current rates, see www.bna.ao. In 2007, the government issued \$3.5 billion in a single issue subscribed by a number of Angolan commercial banks.

¶27. In December 2005, the government announced plans to develop a stock market and appointed a commission to oversee its creation. It has not opened as of the end of 2008. The government may privatize some state-owned companies and list them on the stock exchange. The state oil company SONANGOL and the state diamond company ENDIAMA are expected to be listed on the stock exchange.

----- Political Violence -----

¶28. Political violence is not a substantial risk in Angola. The security situation in its oil-rich enclave of Cabinda has improved markedly since the 2006 peace accord between the leading separatist movement and the central government. Nonetheless, Cabinda has continued to experience violence, often targeted at foreigners.

----- Corruption -----

¶29. To lower investment risks and provide greater assurance to investors, Angola needs greater progress toward good governance, the rule of law and diminished corruption. Senior officials are widely seen as corrupt, while the government's limited publication of accounting information fuels public suspicions. Since 2006, under pressure from the international community, the government has made significant strides towards greater transparency by publishing financial information and preventing extra-budgetary expenditures. Angola is not a signatory to the OECD Convention on Combating Bribery, but is a participant in the New Partnership for Africa's Development (NEPAD), which includes a Peer Review Mechanism on good governance and transparency. Angola's government approved an Audit Court in 2000 to investigate misuse of public funds by public institutions.

¶30. Low civil-service salaries and a proliferation of bureaucracy and regulations present opportunities for rent-seeking and encourage corruption. Complicated procedures and long bureaucratic delays sometimes tempt investors to seek quicker service and approval by paying gratuities and facilitation fees. Transparency International's 2008 Corruption Perception Index (CPI) placed Angola at 158 of 180 countries. The Heritage Foundation ranked Angola 143 of 162 countries surveyed on its 2008 Index of Economic Freedom, describing Angola as "repressed."

¶31. Although the nation's public and private companies historically have not used transparent accounting systems consistent with international norms, Angola, encouraged by the IMF, has invited major international accounting firms to conduct regular audits of its largest public companies. The 2002 Audit Law requires audits for all "large" companies, but the lack of a professional accounting oversight body has impeded enforcement. US firms operating in Angola are required to adhere to the Foreign Corrupt Practices Act.

----- Bilateral Investment Agreements -----

¶32. Angola does not have a bilateral investment treaty or bilateral tax treaty with the United States. Angola has signed bilateral investment agreements with Italy, Germany, Portugal, South Africa and the United Kingdom, but has not ratified or implemented any of those agreements. Angola ratified a bilateral investment agreement with Cape Verde in 2004. A list of current bilateral investment treaties and their status can be found at the United Nations Conference on Trade and Development (UNCTAD) website.

----- OPIC and Other Investment Insurance Programs -----

¶33. The Overseas Private Investment Corporation (OPIC) has provided investment insurance to projects in Angola in recent years, and U.S.

investors can apply for OPIC insurance, including coverage under its "Quick Cover" program for projects valued at less than \$50 million in certain sectors.

¶34. Angola is a member of the Multilateral Investment Guarantee Agency (MIGA), which provides insurance to foreign investors against such risks as expropriation, non-convertibility, war or civil disturbance. MIGA also provides investment dispute resolution on a case-by-case basis.

Labor

¶35. Angola's General Labor Law (Law No. 2/00) provides significant protection and benefits to workers. The law expands maternity and other leave and provides the right to strike and bargain collectively. The law spells out proper procedures for hiring workers. For work contracts of indefinite duration, the law provides for a basic probationary period of up to six months, during which the worker or employer can terminate the contract without notice or justification. After the probationary period ends, dismissed workers have the right to appeal to a Labor Court. Many employers prefer to reach a monetary settlement with workers when a dispute arises, rather than bring cases before the Court. The World Bank Group's 2009 Doing Business report placed the average cost of firing a worker in Angola at 58 weeks worth of wages.

¶36. The local labor force has limited technical skills, English language ability and managerial ability. Many employers invest heavily in educating and training their Angolan staff.

¶37. The government conducts annual surveys of the oil industry to implement a requirement that oil companies hire Angolan nationals when qualified applicants are available. If no qualified nationals apply for the position, then the companies may request the government's permission to hire expatriates. This rule also requires equal pay and benefits for equal work. Outside of the petroleum sector, policies to encourage Angolanization of the labor force discourage bringing in expatriate labor. This has extended to delays in approving visas for technicians to visit for a few weeks. In late 2008, the Angolan began enforcing its Angolanization policy. An announcement was issued by the government directed at the international oil companies. A similar announcement for companies outside the petroleum sector was not released.

¶38. The constitution grants the right to engage in union activities and labor strikes, but the government may intervene in labor disputes that affect national security, particularly strikes in the oil sector. More than 2,000 workers at the port of Lobito, Angola's second largest, went on strike in November 2008 for two weeks demanding their salaries be increased to \$800 a month from as low as \$240. The port director accepted their demands, but at the time of this report their demands had not been implemented. There are indications that workers at the port will strike again in the near future. A strike at the Sonils base in Luanda occurred in November. Sonils dock workers were forcibly removed from the base after demanding higher wages.

Foreign-Trade Zones/Free Ports

¶39. Angola is a signatory to the SADC Free Trade Protocol that seeks to harmonize and reduce tariffs and establish regional policies on trade, customs and methodology. However, in 2008, Angola announced that it would delay implementation of this protocol until 2010, fearing a flood of imports from other SADC countries, particularly South Africa. The government aims to revive internal production before lowering its tariff barriers. In September 2004, the government announced reduced customs duties on imported goods and in December exempted businesses and individuals in the enclave of Cabinda from all customs duties. In early 2009, the newly expanded port of Cabinda began operations. An initial investment of \$100 million was made to deepen the port and increase port capacity. These reductions and exemptions do not apply to the oil industry. Angola has signed customs cooperation agreements with Portugal and Sao Tom and Principe, and more recently (December 2006) with neighboring Namibia. Other agreements are expected with South

Africa and members of the Community of Portuguese-Speaking Countries (CPLP). Angola is also currently negotiating customs agreements with two other neighbors, Zambia and the Democratic Republic of Congo, all fellow SADC members.

Foreign Direct Investment Statistics

¶40. According to the UN Conference on Trade and Development's (UNCTAD) 2008 World Investment Report, Angola had a total of USD 12.1 billion in FDI in 2006 or 25.7% of GDP. During 2000-06, average annual inflows of FDI were \$1.9 billion. In 2007 FDI stock stood at 12.2 billion, or 19.9 percent of GDP. The petroleum industry accounts for most FDI, with annual amounts varying, depending on the size and number of projects underway. Most of Angola's FDI comes from the United States, followed by France and the Netherlands. FDI outflow and stock have been negligible. In 2002, FDI outflow from Angola was less than \$10 million.

Angola is a recipient of several lines of credit from the following countries:

China (Export-Import Bank)	USD 4.5 billion
China (Chinese Investment Fund)	USD 2.9-9.0 billion.
Brazil	USD 1.8 billion
Portugal	USD 1.4 billion
Spain	USD 600 million
Germany	USD 500 million
EU	USD 200 million
India	USD 50 million

Web Resources

National Investment Agency of Angola: <http://www.investinangola.com>
US-Angola Chamber of Commerce: <http://www.us-angola.org>
Official Republic of Angola Website: <http://www.angola.org>
National Bank of Angola: <http://www.bna.ao>
Ministry of Finance: <http://www.minfin.gv.ao>
Ministry of Public Administration, Employment and Social Security: <http://www.mapess.gv.ao>
Commercial Directory of Angola: <http://www.dcda.net>
National Directory of Internal Commerce: <http://www.dnci.net>
AngoAccommodation: <http://www.angoalojamento.com>
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AngolaHosting: <http://www.angolahosting.com>
LuandaOnline: <http://www.luandaonline.com>
AngolaPress Agency: <http://www.angolapress-angop.ao>
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